

Second Regular Session 114th General Assembly (2006)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2005 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1017

AN ACT to amend the Indiana Code concerning professions and occupations.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 5-1-16-45 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 45. (a) A county desiring to have a building erected or renovated on land owned or to be acquired by the county may sell that land or building to the authority. Before the sale may take place, the county commissioners shall file a petition with the circuit court of the county requesting the appointment of: ~~three (3)~~

(1) **one (1) disinterested freeholders freeholder** of the county as **an appraiser; and**

(2) **two (2) disinterested appraisers licensed under IC 25-34.1; who are residents of appraisers Indiana** to determine the fair market value of the land or building. **One (1) of the appraisers described under subdivision (2) must reside not more than fifty (50) miles from the land or building.** Upon appointment, the appraisers shall fix the fair market value of the land or building and shall report that value within two (2) weeks from the date of their appointment. The county may then sell the land or building to the authority for an amount not less than the amount fixed by the appraisers as the fair market value. The amount shall be paid in cash upon delivery of the deed by the county to the authority. If a cumulative building fund exists at the time of the sale, the proceeds from the sale shall be placed in that fund. If a cumulative building fund does not exist at the time of the sale, the

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proceeds from the sale shall be paid into the county hospital fund with the principal and interest on the fund to be used solely by the county hospital for the purposes set forth in IC 16-22-5-3 (or IC 16-12.1-4-4 before its repeal on July 1, 1993). A sale of land or a building by a county to the authority shall be authorized by the board of commissioners by an order that shall be entered in the official records of the board. The deed shall be executed on behalf of the county by the board of county commissioners.

~~(c)~~ **(b)** A contract entered into under this chapter for a public work (as defined in IC 5-16-7-4) is subject to IC 5-16-7.

SECTION 2. IC 8-1.5-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. Whenever the municipal legislative body determines to sell or otherwise dispose of nonsurplus municipally owned utility property, it shall by ordinance or resolution, by a two-thirds (2/3) vote, provide for:

(1) the appointment of: ~~three (3)~~

(A) one (1) disinterested freeholder residing in the municipality; and

(B) two (2) disinterested appraisers licensed under IC 25-34.1;

who are residents of Indiana;

(2) the appraisal of the property; and

(3) the time that the appraisal is due.

One (1) of the appraisers appointed under subdivision (1)(B) must reside not more than fifty (50) miles from the property.

SECTION 3. IC 8-4-1-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 16. (a) A corporation formed under this chapter is authorized to enter upon any land for the purpose of examining and surveying its railroad line and may appropriate as much land as is deemed necessary for its railroad, including necessary side-tracks and water stations, materials for constructing, except timber, a right-of-way over adjacent lands sufficient to enable the company to construct and repair its road, and a right to conduct water by aqueducts, and the right of making proper drains.

(b) The corporation shall deposit with the clerk of the circuit court of the county where the land lies, a description of the rights and interests intended to be appropriated. The land, rights, and interests shall belong to the company, to use for the purpose specified, by making or tendering payment as provided in this section.

(c) The corporation may, by its directors, purchase lands, materials, rights-of-way, or interests of the owner of the land, or, in case the land is owned by a mentally incompetent person or a person under eighteen

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(18) years of age, at a price to be agreed upon by the guardian or parent of the mentally incompetent person or person under eighteen (18) years of age, if the land, material, right-of-way, or interest is appraised by the court in which the description is filed. Upon agreement and approval, the owner, guardian, or parent, as the case may be, shall convey the premises purchased, in fee simple or otherwise, as the parties may agree, to the railroad corporation. The deed, when made, shall be valid in law.

(d) If the corporation does not agree with the owner of the land, or with the owner's guardian, if the owner is incapable of contracting, concerning the damages sustained by the appropriation, the corporation shall deliver to the owner or guardian, if within the county, a copy of the instrument of appropriation. If the owner or the owner's guardian, in case the owner is incapable of contracting, is unknown or does not reside within the county, the corporation shall publish, in a newspaper of general circulation in the county, for three (3) weeks, an advertisement, concerning the substance of the instrument of appropriation.

(e) Upon filing an act of appropriation and delivery of a copy, or making the publication, the circuit court in the county where the land lies, upon the application of either party, shall appoint, by warrant: ~~three (3)~~

(1) one (1) disinterested freeholders freeholder of the county; and

(2) two (2) disinterested appraisers licensed under IC 25-34.1; who are residents of Indiana to appraise the damages which the owner of the land may sustain by the appropriation. **One (1) of the appraisers appointed under subdivision (2) must reside not more than fifty (50) miles from the land.** The appraisers shall be duly sworn. They shall consider the injury that the owner may sustain by reason of the railroad. The appraisers shall return their assessment of damages to the clerk of the court, setting forth the value of the property taken or injury to the property which they assess to the owner, or owners separately, to be filed and recorded by the clerk. The corporation shall pay to the clerk the amount thus assessed, or tender the amount to the party in whose favor the damages are awarded or assessed.

(f) On making payment or tender in the manner required, it is lawful for the corporation to hold the interests in the lands or materials appropriated, and to use the materials on the roadway and within fifty (50) feet on each side of the center of the roadway. The cost of the award shall be paid by the corporation. On notice by any interested

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party, the court may order payment and enforce the payment by execution.

(g) The award of the arbitrators may be reviewed by the court in which proceedings may be had, on written exceptions filed by either party in the clerk's office within twenty (20) days after the filing of the award. Notice of filing of the arbitrators' award shall be given by the clerk of the court to all known parties to the action and their attorneys of record by certified mail. The period of exceptions shall run from and after the date of mailing. The court shall make an order as right and justice may require by ordering a new appraisalment on good cause shown.

(h) Notwithstanding an appeal, the corporation may take possession of the property described in the exceptions, and the subsequent proceedings on the appeal only affect the amount of compensation to be allowed. If, prior to the assessment, the corporation shall tender to the owner (or the owner's guardian, if the owner is unable to contract) an amount equal to the award that was made, exclusive of costs, the costs of arbitration shall be paid equally by the corporation and the owner or guardian.

SECTION 4. IC 8-4-10-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. (a) The owner or owners or their lessees of lands, mills, blast-furnaces, quarries, iron ore, coal mines, or other minerals, or other real estate or any company of persons who desire to construct a lateral railroad, not exceeding ten (10) miles in length, may locate and construct the lateral railroad to any other railroad, canal, or slack-water navigation on, over, through, or under any intervening lands. Their engineers, agents, artists, and assistants may enter upon any intervening lands, doing no unnecessary damage, and survey, mark, and lay out a route for the proposed lateral railroad.

(b) A person described in subsection (a) may present a petition to the circuit court of the county in which the intervening lands are situated that sets forth the beginning, course, distance, and termination of the proposed lateral railroad, together with a map or profile of the route, indicating the excavations and embankments on the route, and designating, particularly, the name or names of the owner, owners, occupant or occupants, and agent or agents of such intervening lands, with a particular description of the same. The petition must be filed in the court.

(c) After the petition is filed, the court shall appoint: ~~three (3) judicious and~~

(1) one (1) disinterested freeholders freeholder of the county;
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(2) two (2) disinterested appraisers licensed under IC 25-34.1; who are residents of Indiana as viewers. One (1) of the appraisers appointed under subdivision (2) must reside not more than fifty (50) miles from the land.

(d) After five (5) days notice, to be given by the applicant to each of the owners, occupants, or agents of the intervening lands, of the time and place, and after being duly sworn to discharge their duties fairly and honorably as viewers, the viewers shall view the proposed route as marked and laid out for the railroad. They, or a majority of them, shall assess the damages, if any, that may be sustained by the owners, separately, of the intervening lands by reason of the location, construction, and use of the proposed lateral railroad, and report the assessment in writing to the clerk of the court immediately after the assessments are made. The report shall be filed in the office of the clerk of the court.

(e) If a party does not reject the report within twenty (20) days after the filing of the report, by writing on the report "not accepted" and signing the report, the report shall be confirmed by the court. If any party rejects the report, the report shall stand for trial.

(f) At trial, the general denial to the petition and report shall be taken as filed, and all matters of defense and reply may be given in evidence under the general denial. The party rejecting the report has the affirmative of the issues. The viewers or jury trying the cause shall, in assessing damages, take into consideration the advantages that may be derived by the owner or owners of the lands passed on, over, through, or under by the proposed lateral road by its location and construction.

(g) Upon the filing of the report by the viewers in the court, the damages assessed by them shall be paid to the clerk, to be tendered to the party in whose favor the damages are awarded or assessed.

(h) After payment or tender is made under this section, the person, persons, or company of persons, and their lessees described in subsection (a), may hold and take possession of the interests in the intervening lands or materials appropriated, and the privileges of using any materials on the roadway within fifty (50) feet on each side of the center of the roadway for the use described in subsection (a).

(i) The costs of the assessments by the viewers and the costs in case of trial shall be paid as in other cases.

SECTION 5. IC 8-4-12-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. Any company that ~~now~~ is or that may be organized under the general laws of this state providing for the incorporation of railroad companies may complete any such abandoned

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road or part thereof, and shall, for such purpose, be invested with all the rights, privileges, interests, rights of way, franchises, properties, and immunities of such derelict railroad company, and shall proceed to construct the same, as is hereafter provided. ~~Provided, However, That~~ before any such new company shall succeed to said rights, privileges, interests, rights of way, franchises, properties and immunities, and before it shall proceed to complete such road or part of such road, the value of the same shall be ascertained by: ~~three (3)~~

(1) one (1) disinterested freeholders freeholder residents in any county through which the line of ~~such the~~ road may run; **and**

(2) two (2) disinterested appraisers licensed under IC 25-34.1; who are residents of Indiana, one (1) of whom shall be selected by said new company, and one (1) by the old company, or the assignee or purchaser of the franchises thereof, and the other by the auditor of such county. ~~and these three (3)~~ **One (1) of the appraisers described under subdivision (2) must reside not more than fifty (50) miles from the property. The freeholder and the two (2) appraisers appointed under subdivisions (1) and (2) shall constitute a board of appraisers; and in the event that the said old company, or the assignee or purchaser of the franchises thereof, shall fail or refuse, upon request, to name such appraiser, then he the appraiser shall be named by the said auditor. Such board of appraisers shall take an oath to faithfully discharge their duties, and make a true and impartial appraisal of such rights, privileges, interests, rights of way, franchises, properties and immunities. Such board shall report their appraisal to said auditor, and, upon the payment of the same by such new company to the treasurer of such county, it shall succeed to and be invested as aforesaid. ~~Provided, That~~ Nothing in this chapter shall authorize or permit any railroad company which has constructed and is operating its road to change its line of road from that now used and occupied so as to avoid any point named in their charter or articles of association.**

SECTION 6. IC 8-6-2.1-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 11. (a) When the land or any part of it is to be acquired by purchase, the resolution shall also state the maximum proposed cost, and the board may at any time prior to the adoption of the resolution obtain from the owner or owners of the land an option for its purchase, or the board may enter into a contract for the purchase of ~~it the land~~ upon the terms and conditions ~~it the~~ **board** considers best. The option or contract is subject to final confirmation or rescission of the resolution, and subject further to the condition that the land be paid for only out of the special fund resulting from the sale of grade separation district bonds and the collection of

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benefit assessments, or out of funds coming to the city from equitable settlements between the parties. If the board desires to acquire any lots or parcels of land by purchase, it shall appoint: ~~three (3)~~

(1) one (1) freeholder freeholder residing in the city, or in the county in which the city is located; **and**

(2) two (2) appraisers licensed under IC 25-34.1;

who are residents of Indiana, who are not interested in any land to be acquired or in land which may incur local benefits under such resolution, to appraise the value of the land. **One (1) of the appraisers appointed under subdivision (2) must reside not more than fifty (50) miles from the property.** The appraisers shall take an oath that they have no interest in the matter and that they will honestly and impartially make the valuation. The appraisers shall then proceed to view the land and consider and determine its true market value at that time.

(b) The appraisers shall submit a written report of their appraisal to the board and the report shall be filed with and become a part of the record of the proceeding. The board may not exercise any option on the land or enter into a contract to purchase the land at a higher price than the value named in the report.

SECTION 7. IC 8-9.5-7-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 17. (a) This section provides for the assessment of benefits and damages to property within the automated transit district. For the purpose of providing all or part of the cost of payment of principal and interest on bonded indebtedness, and expenses of planning, construction, operation, maintenance, and repair of the automated transit system and related parking facilities and services after the completion of the same, including as a part of such cost the general expenses of the commission, the commission may make an annual assessment of benefits and damages. The assessment shall be against the site value of the lands only.

(b) The commission shall annually prepare a schedule which describes each tract of land in the district that it determines to be benefited by the automated transit system, and states the percentage of the total benefit that is received by each tract of land. In order to prepare this schedule, the commission shall appoint three (3) **disinterested** persons, who are licensed real estate brokers **or appraisers licensed under IC 25-34.1 who are residents of Indiana**, as appraisers to make an examination of the property within the improvement district. **One (1) of the persons appointed under this subsection must reside not more than fifty (50) miles from the**

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property. Upon request from the appraisers, the commission may retain or employ qualified personnel to render any necessary technical or consulting assistance, and may supply the appraisers with any information available or obtainable which will assist in making the assessment. Upon such examination, such appraisers shall make an assessment of all special benefits and damages, if any, which will accrue from the construction and operation of the automated transit system, as to each parcel of real estate. All property within the district (or owned or operated by the district), except common green areas, shall be conclusively presumed to be benefited by the existence of the district to the extent determined under this section as its assessed benefit. A copy of the roll of all owners of real estate, signed by all three (3) appraisers, showing the assessment of benefits and damages, if any, shall be filed by the appraisers with the commission not less than thirty (30) days after their appointment, unless the commission shall extend the time.

(c) Promptly after the filing of an assessment, the commission shall cause a notice to be mailed, by United States mail, first class postage prepaid, to each owner of real estate to be assessed. The notices shall be deposited in the mail twenty-one (21) days before the hearing date, shall set forth the amount of the proposed assessment, shall state that the proposed assessments on each parcel of real estate in the district are on file and can be seen in the office of the commission, and shall set forth the date when the commission will, at its office, receive written remonstrances against the assessment on the parcel and hear all owners of real estate assessed who have filed written remonstrances prior to the date fixed for the hearing. It shall be sufficient if the notices to the owners are addressed as the names and addresses appear upon the tax duplicates in the records of the county auditor.

(d) At the time so fixed in such notice, the commission shall hear all owners of real estate assessed who have filed written remonstrances prior to the date of the hearing. The hearing may be continued from time to time as long as may be necessary to hear such owners.

(e) The commission shall complete such assessment roll by rendering its decision by increasing, or decreasing, or by confirming each assessment by setting opposite each name, parcel and appraisers' assessment, the amount of the assessment as determined by the commission. If the total of the assessments exceeds the amount needed, the commission shall further make pro rata reduction in each assessment. The signing of such roll by a majority of the commission members, and the delivery thereof to the fiscal officer of the city shall constitute a final and conclusive determination of the benefits or

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damages, if any, assessed. However, any owner who had previously filed a written remonstrance as provided in this section with the board or any owner whose assessment was increased above the amount fixed by the appraisers, whether he filed such a written remonstrance or not, may appeal. Such appeal shall be taken as provided in IC 34-13-6, and shall proceed to trial, hearing, and final judgment in the manner and with the effect as provided in IC 34-13-6 as to all parties.

(f) If the final determination of the commission results in the total funds being inadequate to cover the cost of the improvement, the deficiency may be supplied by other sources as provided in this chapter.

(g) Each assessment shall be a lien on the real estate assessed, second only to taxes levied on such property.

(h) The commission shall annually transmit to the county auditor the schedule of assessment of benefits. The county auditor shall enter the assessment of benefits on the tax duplicates, and the county treasurer shall collect and enforce the amount of the assessed benefit in the same manner as property taxes are entered, collected, and enforced.

(i) The county treasurer charged with the duty of collecting such taxes shall, between the first and tenth days of each month, notify the commission of the amount of such special taxes collected during the preceding month, and upon the date of notification above referred to such county treasurer shall credit the amount so collected to a fund of such district to be designated as the "_____ Automated Transit District Fund", and such fund shall be used and expended for no other purpose than as stated in this section. The commission shall have full, complete, and exclusive authority to expend for and on behalf of the district all sums of money thus realized. The commission may, by resolution, authorize and make temporary loans in anticipation of the collection of the special benefit taxes actually levied and in the course of collection under this section, which loans shall mature and be paid within the year in which made, and shall bear interest payable at the maturity of the loan. Such temporary loans shall be evidenced by warrants.

SECTION 8. IC 10-18-2-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 16. (a) A county executive, acting jointly with the board of public works of a city located in the county to acquire grounds, real property, and interests in real property, by purchase or condemnation for any of the purposes authorized by this chapter, may proceed under IC 32-24, together with all the powers of eminent domain granted under this chapter.

(b) Before a county executive may purchase real property or

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interests in real property, by the county, jointly by the county and a city located in the county, by the county executive or board of trustees, as provided in section 11 of this chapter, or by the county executive acting jointly with the board of public works of any city located in the county, the county executive must ~~(1)~~ have the real property appraised at its true cash value by at least: ~~three (3)~~

(1) one (1) disinterested freeholders freeholder of the county; and

(2) two (2) disinterested appraisers licensed under IC 25-34.1; who are residents of Indiana. One (1) of the appraisers described in subdivision (2) must reside not more than fifty (50) miles from the property. The county executive may not pay more than the appraised value for any real property and interests in real property.

(c) If an owner refuses to sell real property at the appraised value, the property must be acquired by condemnation. If a county acts alone, an attorney representing the county shall conduct all the legal proceedings necessary in the purchase or condemnation of real property. The legal department of a city and an attorney representing the county, if the county and city act jointly under this chapter, shall conduct all the necessary legal proceedings, without additional compensation, for the purchase or condemnation of real property.

(d) If a county acquires real property for any of the purposes provided for by this chapter or joins with a city located in the county in the acquisition of real property for any of the purposes provided for in this chapter, the county, acting by and through its county executive, or the county, by and through its county executive acting jointly with any city located in the county, by and through its board of public works, with the approval of the mayor, may sell the buildings and improvements on the real property.

(e) The net rent or proceeds of the sale of the building and improvements on the real property at a war memorial, if the real property was acquired by the county, shall be added to and become a part of the county world war memorial fund. If the real property was acquired by the county and any city located in the county jointly, the rent and proceeds of sale shall be added to the county world war memorial fund and the city world war memorial fund in the same proportions that the city and county contributed to the acquisition of the real property, buildings, and improvements, or the county.

(f) The county and a city located in the county acting jointly, as provided in this chapter, may convey any real property acquired to the state. The contract with the state must provide for the rent of buildings and improvements on real property, until necessary to remove the

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buildings and improvements, and for the sale of the buildings and improvements if the real property is needed by the board of trustees for world war memorial and other public purposes. The contract must provide how the net rent or proceeds will be applied.

(g) If a county institutes proceedings to condemn any real property or interests in real property or other property under this chapter, the suit must be brought:

- (1) in the name of the county;
- (2) by an attorney representing the county; and
- (3) at the direction of the county executive.

(h) If the joint condemnation of real property under this chapter is by a county and by a city located in the county, the suit must be brought in the name of the county, as provided in this section, and in the name of the city by its legal department, without additional compensation, at the direction of the board of public works. The county, or the county and the city jointly, may:

- (1) join in one (1) action naming as defendants the owners and all persons interested in one (1) or more tracts of real property to be condemned; or
- (2) institute proceedings to condemn separate tracts of real property.

SECTION 9. IC 10-18-4-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 13. (a) The board of public works of a city, acting for the city or acting jointly with the board of commissioners of the county in which the city is located, may proceed under IC 32-24 and has all powers of eminent domain granted in this chapter or any other statute to acquire interests in real property by purchase or condemnation for any of the purposes authorized by this chapter.

(b) Before the board of public works may purchase an interest in real property, either by the city or jointly by the city and the county in which it is located:

- (1) the board of public works;
- (2) the board of trustees, as provided in section 12 of this chapter; or
- (3) the board of public works acting jointly with the board of commissioners of the county in which the city is located;

must have the real property appraised at its true cash value by at least ~~three (3)~~ **one (1)** disinterested ~~freeholders~~ **freeholder** of the city and **two (2) disinterested appraisers licensed under IC 25-34.1 who are residents of Indiana** and may not pay more than the appraised value for any interest in real property. **One (1) of the licensed appraisers**

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must reside not more than fifty (50) miles from the property. If an owner refuses to sell the owner's interest in real property at the appraised value, the interest in real property must be acquired by condemnation. The legal department of the city shall conduct all necessary proceedings for the purchase or condemnation of an interest in real property by the city and county jointly, for any purpose under this chapter, without additional compensation.

(c) If a city institutes proceedings to condemn an interest in real property under this chapter, the suit must be brought in the name of the city by the legal department of the city, without additional compensation, at the direction of the board of public works. If there is a joint condemnation of an interest in real property by a city and the county in which it is located, the suit must be brought in the name of the city as provided in this section and in the name of the county, by an attorney representing the county, at the direction of the board of county commissioners of the county. The city or the city and county jointly may:

- (1) join in one (1) action as defendants the owners and all persons interested in one (1) or more interests in real property to be condemned; or
- (2) institute proceedings to condemn separate interests in real property.

SECTION 10. IC 16-22-6-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 26. (a) A county desiring to erect or renovate a building on land owned or to be acquired by the county may sell land or a building, or both to the authority. Before the sale may take place, the county executive, with the approval of the county fiscal body, shall file a petition with the circuit court of the county requesting the appointment of: ~~three (3)~~

(1) one (1) disinterested freeholders freeholder of the county as ~~appraisers an appraiser; and~~

(2) two (2) disinterested appraisers licensed under IC 25-34.1; who are residents of Indiana to determine the fair market value of the land and buildings. **One (1) of the appraisers described under subdivision (2) must reside not more than fifty (50) miles from the land.** The appraisers shall fix the fair market value of the land and buildings and report not more than two (2) weeks after the date of the appraisers' appointment. The county may sell the land and buildings to the authority for an amount not less than the amount fixed as the fair market value by the appraisers. The amount shall be paid in cash upon delivery of the deed by the county to the authority.

(b) If a cumulative building fund exists at the time of the sale under

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IC 16-12-16 (before its repeal on July 1, 1993), IC 16-12.1-4-4 (before its repeal on July 1, 1993), or IC 16-22-5, the proceeds from the sale shall be placed in the fund. If a cumulative building fund does not exist at the time of the sale, the proceeds from the sale shall be paid into the county hospital fund and the principal and interest shall be used for the purposes set forth in IC 16-22-5. A sale of land or buildings, or both, by a county to the authority shall be authorized by the county executive by an order entered in the official records of the county executive. The deed shall be executed on behalf of the county by the county executive.

SECTION 11. IC 16-22-7-29 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 29. (a) The city hospital, city, or county desiring to erect buildings on land owned or acquired by the city hospital, city, or county may lease land to the authority for a nominal rental for the same period, including renewal periods, that the lessee proposes to lease the particular land or buildings to be constructed from the authority. The city hospital, city, or county may grant an option to the authority to purchase the land not more than six (6) months after the expiration of the lease from the authority on the land or buildings if the city hospital or lessee does not exercise an option to purchase the buildings within the terms of the lease. If the option price on the land is not fixed in the original lease, the price shall be determined by an appraisal made by: ~~three (3)~~

(1) one (1) disinterested freeholders freeholder residing in the county; **and**

(2) two (2) disinterested appraisers licensed under IC 25-34.1; who are residents of Indiana appointed by the judge of the circuit court. **One (1) of the appraisers appointed under subdivision (2) must reside not more than fifty (50) miles from the land.**

(b) A lease of land by the city hospital, city, or county must be authorized by the city legislative body, the county executive, or governing board of the hospital, respectively, and a resolution, an order, or an ordinance must be entered in the official records of the governing body. Authorization may be given before or concurrently with the authorization of the lease from the authority to the lessee. The authorization to lease land to the authority is contingent upon the authorization to lease land from the authority. The lease to the authority shall be executed on behalf of the following:

- (1) The city by the city executive and the recording officer.
- (2) The county by the county executive and auditor.
- (3) The authority by the president or vice president and secretary of the governing board.

SECTION 12. IC 16-22-7-30 IS AMENDED TO READ AS



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FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 30. (a) The city hospital, city, or county desiring to have buildings erected on land owned or acquired by the city hospital, city, or county may sell the land to the authority. Before the sale may take place, the legislative body of the city, the governing board of the hospital, or executive of the county having authorized the sale shall file a petition with the circuit court of the county requesting the appointment of: ~~three (3)~~

(1) one (1) disinterested freeholders freeholder of the county as appraisers an appraiser; and

(2) two (2) disinterested appraisers licensed under IC 25-34.1; who are residents of Indiana to determine the fair market value of the land. One (1) of the appraisers appointed under subdivision (2) must reside not more than fifty (50) miles from the land. Upon appointment, the appraisers shall fix the fair market value of the land and shall report not more than two (2) weeks after the date of the appraisers' appointment. The city hospital, city, or county may sell the land to the authority for an amount not less than the amount fixed as the fair market value by the appraisers. The amount may be paid from proceeds of bonds of the authority.

(b) The city legislative body must authorize the sale of land owned by the city by resolution or ordinance and the deed shall be executed by the city executive and city clerk.

(c) The governing board must authorize the sale of land owned by the city hospital by resolution and the deed shall be executed by the president or vice president and the secretary of the governing board.

(d) The county executive must authorize the sale of land owned by the county by resolution or order, and the deed shall be executed by the county executive and the county auditor.

SECTION 13. IC 20-23-6-9, AS AMENDED BY HEA 1134-2006, SECTION 97, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 9. (a) When any:

- (1) school town;
- (2) school city;
- (3) school township;
- (4) joint school; or
- (5) consolidated school;

has become consolidated by resolution or election and the new governing body has been appointed and legally organized, the former school township, school town, school city, joint school, or consolidated school is considered abandoned.

(b) All school:

- (1) property;

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- (2) rights;
- (3) privileges; and
- (4) any indebtedness;

from the abandoned school is considered to accrue to and be assumed by the new consolidated school corporation.

(c) The title of property shall pass to and become vested in the new consolidated school corporation. All debts of the former school corporations shall be assumed and paid by the new consolidated school corporation. All the privileges and rights conferred by law upon the former:

- (1) school town;
- (2) school city;
- (3) school township;
- (4) joint school; or
- (5) consolidated school;

are granted to the newly consolidated school corporation.

(d) This subsection applies when the consolidated governing body of a consolidated school corporation decides that property acquired under subsection (b) from a township is no longer needed for school purposes. The governing body shall offer the property as a gift for park and recreation purposes to the township that owned the property before the school was consolidated. If the township board accepts the offer, the governing body shall give the township a quitclaim deed to the property. The deed must state that the township is required to use the property for park and recreation purposes. If the township board refuses the offer, the governing body may sell the property in the manner provided in subsection (e).

(e) This subsection provides the procedure for the sale of school property that is no longer needed for school purposes by the governing body of a consolidated school corporation. The governing body shall cause the property to be appraised at a fair cash value by: ~~three (3) reputable~~

(1) one (1) disinterested resident freeholders freeholder of the school corporation offering the property for sale; **and**

(2) two (2) disinterested appraisers licensed under IC 25-34.1; who are residents of Indiana. One (1) of the appraisers described under subdivision (2) must reside not more than fifty (50) miles from the property. The appraisals shall be made under oath and spread of record upon the records of the governing body. A sale may not be made for less than the appraised value, and the sale must be made for cash. The sale shall take place after the governing body gives notice under IC 5-3-1 of the terms, date, time, and place of sale.

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(f) Proceeds from a sale under subsection (e) shall be placed in a capital projects fund of the consolidated school corporation or other fund designated as the fund that is available for capital outlay of the school corporation.

SECTION 14. IC 20-26-7-14, AS ADDED BY P.L.1-2005, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 14. Ten (10) days after a petition is filed under section 13 of this chapter, the court shall appoint: ~~three (3)~~

(1) one (1) freeholders disinterested freeholder who reside residing in the school corporation or township where the real estate is located; **and**

(2) two (2) disinterested appraisers licensed under IC 25-34.1; who are residents of Indiana to appraise and assess the value of the real estate. **One (1) of the appraisers appointed under subdivision (2) must reside not more than fifty (50) miles from the real estate.**

SECTION 15. IC 20-47-2-15, AS ADDED BY HEA 1134-2006, SECTION 170, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 15. The lessor corporation shall acquire, own, and hold in fee simple the land on which a school building or buildings are to be erected under this chapter. A school corporation that proposes to lease such a school building, either alone or jointly with another school corporation, and owns the land on which it desires that the building or buildings be erected may sell and transfer that land to the lessor corporation in fee simple, subject to the following conditions:

(1) Before the sale may take place, the governing body of the school corporation must file a petition with the circuit court of the county in which the school corporation is located, requesting the appointment of: ~~three (3)~~

(A) one (1) disinterested freeholders freeholder of the school corporation as **an appraiser; and**

(B) two (2) disinterested appraisers licensed under IC 25-34.1;

who are residents of Indiana to determine the fair market value of the land. **One (1) of the appraisers described in clause (B) must reside not more than fifty (50) miles from the land.**

(2) Upon their appointment, the three (3) appraisers shall proceed to fix the fair market value of the land and shall report the amount fixed to the circuit court within two (2) weeks after their appointment.

(3) The school corporation may sell the land to the lessor corporation for an amount not less than the amount fixed as the

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fair market value by the three (3) appraisers, which shall be paid in cash upon delivery of the deed by the school corporation to the lessor corporation. However, if the land was acquired by the school corporation within three (3) years immediately preceding the date of the filing of the petition with the circuit court, the land may not be sold for an amount less than the amount paid by the school corporation for the land.

SECTION 16. IC 20-47-3-13, AS ADDED BY HEA 1134-2006, SECTION 170, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 13. The lessor corporation shall acquire, own, and hold in fee simple the land on which a school building or buildings are to be erected under this chapter. A school corporation that proposes to lease a school building, either alone or jointly with another school corporation, and owns the land on which it desires to be erected the building or buildings may sell and transfer that land to the lessor corporation in fee simple, subject to the following conditions:

(1) Before the sale may take place, the governing body of the school corporation must file a petition with the circuit court of the county in which the school corporation is located, requesting the appointment of: ~~three (3)~~

(A) one (1) disinterested freeholders freeholder of the school corporation as appraisers an appraiser; and

(B) two (2) disinterested appraisers licensed under IC 25-34.1;

who are residents of Indiana to determine the fair market value of the land. One (1) of the appraisers described in clause (B) must reside not more than fifty (50) miles from the land.

(2) Upon appointment, the three (3) appraisers shall proceed to fix the fair market value of the land and shall report the amount fixed to the circuit court within two (2) weeks after the appointment.

(3) The school corporation may sell the land to the lessor corporation for an amount not less than the amount fixed by the three (3) appraisers as the fair market value, which shall be paid in cash upon delivery of the deed by the school corporation to the lessor corporation. However, if the land was acquired by the school corporation within three (3) years immediately preceding the date of the filing of the petition with the circuit court, the land may not be sold for an amount less than the amount paid by the school corporation for the land.

SECTION 17. IC 23-4-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. Such surviving

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partner or partners, within sixty (60) days after such death, shall proceed to make a full, true, and complete inventory of the estate, goods, chattels, rights, credits, moneys, and effects within ~~his or their~~ **the knowledge of the partner or partners**, and shall cause the same to be appraised by:

(1) ~~two (2)~~ **competent freeholders or landholders of the neighborhood; one (1) disinterested freeholder of the county; and**

(2) one (1) disinterested appraiser licensed under IC 25-34.1; who are residents of Indiana, one (1) of whom shall be selected by the surviving partner or partners and the other by the clerk of the court having probate jurisdiction, making a full and complete schedule thereof; which said schedule and appraisal shall be sworn to by said appraisers before the clerk of such court, specifying that the property described in said schedule is appraised at its true cash value; which schedule shall, by said appraisers, be filed in the office of the clerk of the court having probate jurisdiction, immediately after the completion thereof.

SECTION 18. IC 23-14-69-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 7. (a) When a township acquires title to land by donation, purchase, or otherwise for a public cemetery, the trustee of the township shall:

- (1) lay out the land in lots with streets and walks;
- (2) plat the land; and
- (3) record the plat in the office of the recorder of the county.

(b) For recording a plat under subsection (a), the recorder shall collect the same fees as are allowed for similar recordings.

(c) The lots laid out and platted under subsection (a) must be numbered. A specific part of the lots must be:

- (1) set apart; and
- (2) designated on the plat;

for a potter's field.

(d) After the plat has been recorded, the township trustee shall appoint: ~~two (2)~~

(1) one (1) freeholders disinterested freeholder of the township; **and**

(2) one (1) disinterested appraiser licensed under IC 25-34.1; who are residents of Indiana to appraise and fix the value of all the lots on the plat, except the part assigned to the potter's field under subsection (c). The appraisal shall be filed with and preserved by the township trustee.

SECTION 19. IC 32-24-1-7 IS AMENDED TO READ AS



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FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 7. (a) The notice, upon its return, must show its:

- (1) service for ten (10) days; or
- (2) proof of publication for three (3) successive weeks in a weekly newspaper of general circulation printed and published in the English language in the county in which the property sought to be acquired is located.

The last publication of the notice must be five (5) days before the day set for the hearing.

(b) The clerk of the court in which the proceedings are pending, upon the first publication of the notice, shall send to the post office address of each nonresident owner whose property will be affected by the proceedings a copy of the notice, if the post office address of the owner or owners can be ascertained by inquiry at the office of the treasurer of the county.

(c) The court, being satisfied of the regularity of the proceedings and the right of the plaintiff to exercise the power of eminent domain for the use sought, shall appoint: ~~three (3)~~

(1) one (1) disinterested freeholders freeholder of the county; and

(2) two (2) disinterested appraisers licensed under IC 25-34.1; who are residents of Indiana to assess the damages, or the benefits and damages, as the case may be, that the owner or owners severally may sustain, or be entitled to, by reason of the acquisition. **One (1) of the appraisers appointed under subdivision (2) must reside not more than fifty (50) miles from the property.**

SECTION 20. IC 32-24-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. Upon filing the petition, the attorney general shall provide the owners of the property the notice required by law in the commencement of a civil action. It is sufficient to make defendants to the petition all persons who are in possession of the property and those who appear to be the owners or to have any interest in the property by the tax duplicates and the records in the offices of the auditor and recorder of the county. After notice has been given, the court shall appoint: ~~three (3)~~

(1) one (1) disinterested resident ~~freeholders~~ **freeholder** of the county where the property is located; and

(2) two (2) disinterested appraisers licensed under IC 25-34.1; who are residents of Indiana to appraise the value of the property. **One (1) of the licensed appraisers appointed under this subsection must reside not more than fifty (50) miles from the land or building.**

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SECTION 21. IC 36-9-13-29 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 29. (a) An eligible entity that wants to have all or part of a government building constructed, reconstructed, or renovated on land owned or to be acquired by it may:

- (1) sell that land or building to a building authority; or
- (2) lease the land or building to the authority for the same period of years that the eligible entity proposes to lease all or part of the building, and may grant an option to the authority to purchase the land or building within six (6) months after the expiration of the lease on the building if the eligible entity does not exercise an option to purchase the land or building within the terms of the lease.

If the option price of the land or building is not fixed in the lease, then the price to be paid for the land or building under the option shall be determined by an appraisal by ~~three (3)~~ **one (1) disinterested freeholder residing in the county and two (2) disinterested appraisers licensed under IC 25-34.1**, who must be residents of the ~~county, Indiana~~, and who shall be appointed by the circuit court for the county. **One (1) of the appraisers appointed under this subsection must reside not more than fifty (50) miles from the land.**

(b) A sale or lease of land or a building under this section must be authorized by resolution or ordinance of the governing body of the eligible entity, which shall be entered in the official records of the governing body. This authorization must be given concurrently with the authorization by the eligible entity of a lease of the building, or part of it, to be constructed, reconstructed, or renovated wholly or in part on the land.

(c) The deed, in the case of a sale of the land, or the lease, must be executed on behalf of the eligible entity by the officer or officers authorized by law to execute contracts on behalf of the entity, and on behalf of the authority by the president or vice president and secretary of its board of directors.

(d) Before the sale of any land or building under this section, a petition must be filed with the circuit court of the county requesting the appointment of: ~~three (3)~~

- (1) one (1) appraiser** who must be ~~residents a resident~~ of the eligible entity selling the land or building and a disinterested ~~freeholders~~ **freeholder; and**

(2) two (2) disinterested appraisers licensed under IC 25-34.1; who are residents of Indiana. One (1) of the appraisers described under subdivision (2) must reside not more than fifty (50) miles

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from the land or building. The appraisers shall fix the fair market value of the land or building and report their decision within three (3) weeks after their appointment. The eligible entity may then sell the land or building to the authority for an amount not less than the fair market value fixed by the appraisers, which amount may be paid from proceeds of bonds of the authority.

SECTION 22. IC 36-9-38-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 25. A person appointed as an appraiser under this chapter must be:

(1) a disinterested licensed real estate broker; or

(2) a disinterested licensed appraiser under IC 25-34.1.

SECTION 23. IC 36-10-10-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 18. (a) A city desiring to have a convention center erected on land owned or to be acquired by it may sell or lease the land to the authority. The land may be leased at a nominal lease rental, but the term of the lease may not be less than the term of the lease of the convention center to the city.

(b) Before a sale may take place, the city executive, with the approval of the city legislative body, shall file a petition with the circuit court of that county requesting the appointment of: ~~three (3)~~

(1) one (1) disinterested freeholders freeholder of the city as appraisers an appraiser; and

(2) two (2) disinterested appraisers licensed under IC 25-34.1; who are residents of Indiana to determine the fair market value of the land. One (1) of the appraisers described under subdivision (2) must reside not more than fifty (50) miles from the land. Upon their appointment, the appraisers shall fix the fair market value of the land and report within two (2) weeks from the date of their appointment. The city may then sell the land to the authority for an amount not less than the amount fixed as the fair market value by the appraisers, the amount to be paid in cash upon delivery of the deed by the city to the authority. A sale of land by a city to the authority shall be authorized by the city executive and city legislative body by ordinance, which shall be entered in the official records of the legislative body. The deed shall be executed on behalf of the city by the executive and attested by the city clerk.

SECTION 24. IC 36-12-10-10, AS ADDED BY P.L.1-2005, SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 10. (a) The lessor corporation shall hold in fee simple the real property on which the library building or buildings exists or will be constructed. A public corporation or corporations proposing to lease the library building or buildings, either alone or

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jointly with another public corporation that owns the property, may sell the property to the lessor corporation in fee simple.

(b) Before a sale under this section may take place, the governing authority of the public corporation shall file a petition with the circuit court of the county in which the public corporation is located requesting the appointment of: ~~three (3)~~

(1) one (1) disinterested freeholders freeholder of the public corporation as ~~appraisers~~ **an appraiser; and**

(2) two (2) disinterested appraisers licensed under IC 25-34.1; who are residents of Indiana to determine the fair market value of the real property. **One (1) of the appraisers described under subdivision (2) must reside not more than fifty (50) miles from the property.** Upon their appointment, the three (3) appraisers shall fix the fair market value of the real property and report this amount to the circuit court not later than two (2) weeks from the date of their appointment. The public corporation may then sell the real property to the lessor corporation for an amount not less than the amount fixed as the fair market value by the appraisers. The amount shall be paid in cash upon delivery of the deed by the public corporation to the lessor corporation.

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Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

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